

EXHIBIT “5”

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RACHEL H. MITCHELL
MARICOPA COUNTY ATTORNEY

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Joseph J. Branco (031474)
Joseph E. LaRue (031348)
Karen J. Hartman-Tellez (021121)
Deputy County Attorneys
MCAO Firm No. 0003200

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ca-civilmailbox@mcao.maricopa.gov

*Attorneys for the Defendant
Maricopa County Board of Supervisors*

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Kari Lake and Mark Finchem,
Plaintiffs,
vs.
Kathleen Hobbs, et al.,
Defendants.

No. 2:22-cv-00677-JJT

**AFFIDAVIT OF EMILY CRAIGER IN
SUPPORT OF DEFENDANT
MARICOPA COUNTY'S
APPLICATION FOR ATTORNEYS'
FEES**

(Honorable John J. Tuchi)

1 STATE OF ARIZONA }
2) ss.
3 County of Maricopa)

4 Emily Craiger, being first duly sworn, states as follows:
5
6

7 1. I am attorney of record for Defendant the Maricopa County Board of
8 Supervisors (the “County”) in the above-captioned action and make these statements based
9 on my own personal knowledge and in support of the County’s concurrently filed
10 Application for Attorneys’ Fees (the “Application”).
11

12 2. I have been a member of the State Bar of Arizona since 2002 and my practice
13 focuses on election litigation and employment law. I am a partner with the law firm of The
14 Burgess Law Group.
15

16 3. I earned my law degree from the University of Iowa College of Law in 2002
17 and was admitted to practice law in Arizona that same year. In law school, I served as a
18 judicial extern for Eighth Circuit District Court Judge, the Honorable Michael J. Melloy.
19

20 4. Following graduation from Law School, I worked at the local law firms of
21 Ridenour, Hienton, Kelhoffer, Lewis & Garth, P.C. and Robbins & Green, P.A., until I
22 moved to the national law firm of Littler Mendelson, P.C., in 2004. During my time at these
23 three firms, I practiced in the area of civil litigation with a focus on employment law. I
24 litigated numerous cases in state and federal courts, as well as arguing before the Arizona
25 Court of Appeals and Ninth Circuit Court of Appeals. After practicing at Littler Mendelson
26 for nearly ten years, I left my Of Counsel positon to work as a Senior Attorney in the Civil
27 Division of the Maricopa County Attorney’s Office (“MCAO”). While there, I continued
28 to litigate in federal and state courts. I was promoted to the Land Use & Transactional
and Government Advice Practice Group leader positions before moving into the Assistant
Division Chief position overseeing the Civil Division. Among other things, I worked closely
with the Board of Supervisors and other County elected officials, as well as leading the
election law team during the 2020 election. In 2022, I joined the Burgess Law Group as a
Partner. Here I have continued my active litigation practice.

1 5. In addition to this matter, I have defended Maricopa County in the following
 2 election-related cases:

3 • *Aguilera v. Fontes*, No. CV2020-014083 (Maricopa Cty. Super. Ct.,
 4 voluntarily dismissed, Nov. 7, 2020).

5 • *Donald J. Trump for President, Inc. v. Hobbs*, No. CV2020-014248
 6 (Maricopa Cty. Super. Ct., Min. Entry Order, November 13, 2020 (dismissing Complaint
 7 with prejudice)). Complaint alleged that poll workers induced voters to press the “green
 8 button” forcing their ballots to be tabulated even though they had overvoted certain contests,
 9 which would therefore not be counted. Superior Court dismissed the Complaint with
 10 prejudice after conducting an evidentiary hearing.

11 • *Arizona Republican Party v. Fontes*, No. CV2020-014553 (Maricopa Cty.
 12 Super. Ct., Min. Entry Order, Nov. 18, 2020 (dismissing Complaint with prejudice)).
 13 Complaint alleged that Maricopa County improperly conducted statutory hand count. The
 14 Superior Court dismissed the complaint with prejudice.

15 • *Aguilera v. Fontes II*, No. CV2020-014562 (Maricopa Cty. Super. Ct.,
 16 Min. Entry, Nov. 29, 2020, (dismissing Complaint with prejudice)), *affirmed* No. 1 CA-CV
 17 20-0688 EL, 2021 WL 2425918 (Ariz. Ct. App. Jun. 15, 2021). Complaint alleged that (1)
 18 “Sharpie” pens, provided by the County in polling locations, caused overvotes; (2) Arizona
 19 law requires “perfect” voting machines, and the County’s tabulation equipment could not
 20 guarantee “perfect” results; and, (3) the Elections Procedures Manual requires that the public
 21 must have physical access—not online stream—to the ballot tabulation center where ballots
 22 are counted. After conducting an evidentiary hearing, the Superior Court dismissed the
 23 Complaint with prejudice for failing to state a claim upon which relief can be granted, or
 24 alternatively, denied the relief sought because Plaintiffs failed to produce evidence
 25 demonstrating entitlement to same.

26 • *Stevenson v. Ducey*, No. CV2020-096490 (Maricopa Cty. Super. Ct.,
 27 voluntarily dismissed December 7, 2020).

1 • *Ward v. Jackson*, No. CV2020-015285 (Maricopa Cty. Super. Ct., Min.
 2 Entry Ruling, Dec. 4, 2020 (dismissing the Complaint with prejudice)), *affirmed* No. CV-
 3 20-0343-AP/EL (Ariz. S. Ct. Dec. 8, 2020), *cert. denied*, 209 L. Ed. 2d 125, 141 S. Ct. 1381
 4 (2021). Complaint alleged that (1) the Maricopa County Recorder did not allow proper
 5 observation of signature verification for early ballot affidavit envelopes and so the verified
 6 signatures were suspect, and (2) ballots needing to be duplicated were duplicated
 7 erroneously. After conducting evidentiary hearing, the Superior Court denied the requested
 8 relief, “confirming the election,” because the Court found that evidence did not show fraud,
 9 misconduct, illegal votes, or erroneous vote count. On appeal, the Arizona Supreme Court
 10 “conclud[ed], unanimously, that the challenge fails to present any evidence of
 11 ‘misconduct,’ ‘illegal votes’ or that the Biden Electors ‘did not in fact receive the highest
 12 number of votes for office,’ let alone establish any degree of fraud or a sufficient error rate
 13 that would undermine the certainty of the election results.” *Ward v. Jackson*, No. CV-20-
 14 0343-AP/EL, 2020 WL 8617817, at *2.

15 • *Bowyer v. Ducey*, No. CV-20-02321-PHX-DJH, 506 F.Supp.3d 699, 2020
 16 WL 7238261 (D. Ariz. Dec. 9, 2020 (granting motion to dismiss)). Complaint alleged fraud
 17 resulting from foreign interference in the election via offshore algorithms that somehow
 18 infiltrated Maricopa County’s vote tabulation equipment, leading to “injections” of votes for
 19 President-elect Biden, and ballot fraud. After reviewing the “evidence” submitted by the
 20 plaintiffs, the Court dismissed the case, ruling that the “Plaintiffs failed to provide the Court
 21 with factual support for their extraordinary claims[.]” 506 F. Supp.3d at 724.

22 • *Burk v. Ducey*, No. S1100CV202001869 (Pinal Cnty. Sup. Ct. Dec. 15,
 23 2020 (granting motion to dismiss)), *affirmed* No. CV-20-0349-AP/EL, 2021 WL 1380620
 24 (Ariz. Jan. 6, 2021), *cert. denied*, 209 L. Ed. 2d 735, 141 S. Ct. 2600 (2021). Complaint
 25 alleged similar fraud as *Bowyer v. Ducey*. The Superior Court granted the motion to dismiss
 26 and the Arizona Supreme Court affirmed.

27

28

1 6. Filed as Exhibit 3 to the Application is a Task-Based Itemized Statement of
2 Attorneys' Fees. Exhibit 3 contains a detailed compilation of the legal time I devoted to the
3 County's defense of this action. Exhibit 3 is based on individual time entries I recorded on
4 a daily basis. The time records and description of tasks performed were regularly entered
5 into the firm's computerized accounting and billing system. Billings are generated from
6 the computerized system and Exhibit 3 accurately reflects the legal work performed on
7 behalf of the County.

8 7. My billing rate of \$400 per hour in connection with this matter is
9 commensurate with my education, experience and training. I am generally familiar with the
10 rates charged by other attorneys and law firms in this community with similar experience,
11 education and training, and the rate I charged for the time expended on this matter is
12 consistent with those rates.

13 8. The amount of attorneys' fees paid by the County as indicated by the attached
14 records is \$71,220.00 Said sum is fair and reasonable compensation in this county for the
15 nature of the service and the skill required in this action

16 9. I have personally reviewed my billing statements generated in this
17 representation and after evaluating the efforts necessary, I believe that the total sum of
18 reasonable and appropriate attorneys' fees related to my representation of the County comes
19 to \$71,220.00.

20 Pursuant to Ariz.R.Civ.P. 80(i), I declare that under penalty of perjury that the
21 foregoing is true and correct.

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23 //
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1 FURTHER AFFIANT SAYETH NAUGHT
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Emily Craiger

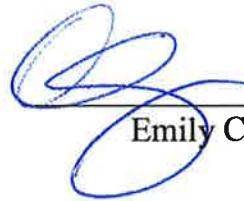
SUBSCRIBED AND SWORN to before me this _____ day of December, 2022.

Notary Public

Commission and Seal:

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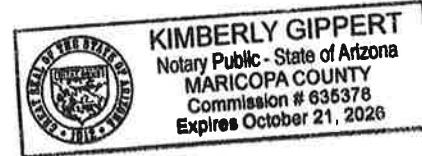
1 FURTHER AFFIANT SAYETH NAUGHT
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9 _____
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11 Emily Craiger

12 SUBSCRIBED AND SWORN to before me this 15th day of December, 2022.
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32 Notary Public

33 Commission and Seal:
34 10/21/2022



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25 ca-civilmailbox@mcao.maricopa.gov

26
27 *Attorneys for the Defendant*
28 *Maricopa County Board of Supervisors*

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23 FOR THE DISTRICT OF ARIZONA

24 Kari Lake and Mark Finchem,
25 Plaintiffs,
26 vs.
27 Kathleen Hobbs, et al.,
28 Defendants.

No. 2:22-cv-00677-JJT

AFFIDAVIT OF JOSEPH E. LA RUE
IN SUPPORT OF DEFENDANT
MARICOPA COUNTY'S
APPLICATION FOR ATTORNEYS
FEES

(Honorable John J. Tuchi)

29 STATE OF ARIZONA }
30 } ss.

1 County of Maricopa)
2

Joseph E. La Rue , being first duly sworn, states as follows:

3 1. I am attorney of record for Defendant the Maricopa County Board of
4 Supervisors (the “County”) in the above-captioned action and make these statements
5 based on my own personal knowledge and in support of the County’s concurrently filed
6 Application for Attorneys’ Fees (the “Application”).
7

8 2. I graduated from Notre Dame Law School in 2006 and was admitted to
9 practice in Ohio that same year. I was admitted to practice in Arizona in 2014. I have
10 been practicing law continuously for sixteen years.
11

12 3. I have extensive election law experience, as explained in this Affidavit.
13 Paragraphs 4-7 describe my experience chronologically. Paragraphs 8 and 9 provide a list
14 of representative cases in which I have participated.
15

16 4. I was trained in election law by prominent election law attorney James
17 Bopp, Jr., at The Bopp Law Firm. Following graduation from law school, I was employed
18 at Graydon Head & Ritchey, a large, regional law firm headquartered in Cincinnati, Ohio,
19 before accepting a position with the Bopp Law Firm in Terre Haute, Indiana in October,
20 2007.¹ The Bopp Law Firm is a boutique law firm specializing in election law. I had the
21 opportunity to be trained by James (“Jim”) Bopp, Jr., the lead attorney in the Firm. Mr.
22 Bopp is regarded as one of the premier Republican election law attorneys in America.² In
23 May, 2010, I was appointed to lead the Campaign Finance and Independent Expenditure
24

25 ¹ The Firm’s name when I joined it was *Bopp, Coleson & Bostrom*.
26 ² See, e.g., Reuters, “The Echo Chamber: Influence at the Supreme Court” (Dec. 8, 2014),
27 available at <https://www.reuters.com/investigates/special-report/scotus/> (recognizing Mr.
28 Bopp as one of “an elite cadre of lawyers (that) has emerged as first among equals, giving
their clients a disproportionate chance to influence the law of the land” by getting their
clients’ appeals heard by the Supreme Court at a remarkable rate); Mark Bennett, “Terre
Haute’s Jim Bopp Jr. a conservative titan,” *The Washington Times* (June 29, 2014),
available at <https://www.washingtontimes.com/news/2014/jun/29/terre-hautes-jim-bopp-jr-a-conservative-titan/#ixzz369d7Ykg%20>; Viveca Novak, “Citizen Bopp,” *The
American Prospect* (Jan. 2, 2012), available at <https://prospect.org/power/citizen-bopp/>
(noting that “Over the past 30 years, Bopp has been at the forefront of litigation strategies
that have reshaped campaign-finance law inexorably”); Stephanie Mencimer, “The Man
Behind Citizens United Is Just Getting Started,” *Mother Jones* (May/June, 2011),
available at <https://www.motherjones.com/politics/2011/05/james-bopp-citizens-united/>.

1 Practice Group at the Bopp Law Firm. In that role, I managed a group of attorneys whose
 2 focus concerned advising and representing clients making independent expenditures,
 3 including litigating cases concerning their constitutional right to engage in this type of
 4 protected political speech.

5 5. I left the Bopp Law Firm in November, 2011 to become the Deputy General
 6 Counsel for Friends of Herman Cain, Inc., which was Herman Cain's campaign for
 7 president of the United States. I served in that position until January, 2012, when I joined
 8 Newt 2012, Inc., Newt Gingrich's campaign for president of the United States, as Deputy
 9 General Counsel.

10 6. From October, 2016 through December, 2019³, I served as the senior
 11 election law attorney at the Arizona Attorney General's Office. In that capacity, I
 12 provided advice and representation for election law matters to the Arizona Secretary of
 13 State, the Arizona Elections Director, and the Citizens Clean Elections Commission.

14 7. In January 2020, I joined the Maricopa County Attorney's Office
 15 ("MCAO") as a Senior Counsel in its Government Advice Practice Group, where I
 16 continued my practice of election law. I am currently the Election Law Team Leader for
 17 MCAO, responsible to oversee and lead the attorneys who work on election law matters.

18 8. I have been involved in a significant number of election law cases, including
 19 the following: *Minnesota Citizens Concerned for Life, Inc. v. Swanson*, 640 F.3d 304 (8th
 20 Cir. 2011), *reh'g en banc granted, opinion vacated* (July 12, 2011), *on reh'g en banc*, 692
 21 F.3d 864 (8th Cir. 2012) (successful challenge to Minnesota political reporting
 22 requirements for committees making independent expenditures); *Thalheimer v. City of*
 23 *San Diego*, 645 F.3d 1109 (9th Cir. 2011) (successful challenge to contribution and
 24 independent expenditure limits for political committees; first case to expand the holding
 25 of *Citizens United v. Fed. Elec. Comm'n*, 130 S.Ct. 876 (2010), to recognize that

26
 27 ³ I worked for a legal nonprofit from April, 2012 through October, 2016, where I
 28 represented clients with first amendment free speech and freedom of religion concerns and
 litigated cases involving those issues.

1 government cannot limit contributions to independent expenditure committees); *Fam.*
 2 *PAC v. McKenna*, 685 F.3d 800 (9th Cir. 2012) (ruled that law banning political
 3 committees from accepting contributions exceeding \$5,000 within 21 days of general
 4 election was unconstitutional as applied to ballot measure committees); *Democratic Nat'l*
 5 *Comm. v. Reagan*, 329 F. Supp. 3d 824 (D. Ariz.), *aff'd*, 904 F.3d 686 (9th Cir. 2018)
 6 (upheld Arizona law requiring in-precinct voting and banning ballot collection after ten-
 7 day bench trial)⁴; *Arizona Libertarian Party v. Hobbs*, 925 F.3d 1085 (9th Cir. 2019)
 8 (upheld Arizona ballot-access scheme, including signature requirements for ballot access,
 9 for recognized parties' candidates); *De La Fuente v. Arizona*, No. CV-16-02419-PHX-
 10 JZB, 2019 WL 2437300 (D. Ariz. June 11, 2019) (upheld Arizona ballot-access scheme,
 11 including signature requirements for ballot access, for independent candidates); *Isabel v.*
 12 *Reagan*, 394 F. Supp. 3d 966 (D. Ariz. 2019), *aff'd on other grounds*, 987 F.3d 1220 (9th
 13 Cir. 2021) (upheld Arizona's voter registration deadline against constitutional challenge);⁵
 14 *Maricopa Cty. Libertarian Party v. Maricopa County*, No. CV2021-002205 (Maricopa
 15 Cty. Super. Ct., May 4, 2021 (granting motion to dismiss Complaint alleging Maricopa
 16 County unlawfully excluded the Libertarian Party from observing forensic audit of
 17 County's tabulation equipment).

18 9. Additionally I have extensive experience with litigation defending Maricopa
 19 County's 2020 general election, including the following cases:

20
 21
 22 ⁴ I was only involved in the bench trial and initial appeal, which is the portion to which I
 23 cited in this affidavit. The case continued after I left the Attorney General's Office.
 24 Ultimately, the United States Supreme Court agreed with the District Court's decision,
 25 which upheld the Arizona laws that I helped defend. The full citation for this matter is
Democratic Nat'l Comm. v. Reagan, 329 F. Supp. 3d 824 (D. Ariz.), *aff'd*, 904 F.3d 686
 26 (9th Cir. 2018), *on reh'g en banc sub nom. Democratic Nat'l Comm. v. Hobbs*, 948 F.3d
 27 989 (9th Cir. 2020), *rev'd and remanded sub nom. Brnovich v. Democratic Nat'l Comm.*,
 28 210 L. Ed. 2d 753, 141 S. Ct. 2321 (2021), *and rev'd and remanded sub nom. Democratic*
Nat'l Comm. v. Hobbs, 948 F.3d 989 (9th Cir. 2020), *and rev'd and remanded sub nom.*
Brnovich v. Democratic Nat'l Comm., 210 L. Ed. 2d 753, 141 S. Ct. 2321 (2021), *and*
aff'd sub nom. Democratic Nat'l Comm. v. Hobbs, 9 F.4th 1218 (9th Cir. 2021).

29 ⁵ I represented the Secretary of State at the trial court, and represented Maricopa County
 30 and the Maricopa County Recorder at the Ninth Circuit Court of Appeals.

1 • *Aguilera v. Fontes*, No. CV2020-014083 (Maricopa Cty. Super. Ct.,
 2 voluntarily dismissed, Nov. 7, 2020).

3 • *Donald J. Trump for President, Inc. v. Hobbs*, No. CV2020-014248
 4 (Maricopa Cty. Super. Ct., Min. Entry Order, November 13, 2020 (dismissing Complaint
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 18 guarantee “perfect” results; and, (3) the Elections Procedures Manual requires that the
 19 public must have physical access—not online stream—to the ballot tabulation center where
 20 ballots are counted. After conducting an evidentiary hearing, the Superior Court dismissed
 21 the Complaint with prejudice for failing to state a claim upon which relief can be granted,
 22 or alternatively, denied the relief sought because Plaintiffs failed to produce evidence
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 25 voluntarily dismissed December 7, 2020).

26 • *Ward v. Jackson*, No. CV2020-015285 (Maricopa Cty. Super. Ct., Min.
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1 1381 (2021). Complaint alleged that (1) the Maricopa County Recorder did not allow
 2 proper observation of signature verification for early ballot affidavit envelopes and so the
 3 verified signatures were suspect, and (2) ballots needing to be duplicated were duplicated
 4 erroneously. After conducting evidentiary hearing, the Superior Court denied the
 5 requested relief, “confirming the election,” because the Court found that evidence did not
 6 show fraud, misconduct, illegal votes, or erroneous vote count. On appeal, the Arizona
 7 Supreme Court “conclud[ed], unanimously, that the challenge fails to present any
 8 evidence of ‘misconduct,’ ‘illegal votes’ or that the Biden Electors ‘did not in fact receive
 9 the highest number of votes for office,’ let alone establish any degree of fraud or a
 10 sufficient error rate that would undermine the certainty of the election results.” *Ward v.*
 11 *Jackson*, No. CV-20-0343-AP/EL, 2020 WL 8617817, at *2.

12 • *Bowyer v. Ducey*, No. CV-20-02321-PHX-DJH, 506 F.Supp.3d 699, 2020
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 15 somehow infiltrated Maricopa County’s vote tabulation equipment, leading to “injections”
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 17 submitted by the plaintiffs, the Court dismissed the case, ruling that the “Plaintiffs failed to
 18 provide the Court with factual support for their extraordinary claims[.]” 506 F. Supp.3d at
 19 724.

20 • *Burk v. Ducey*, No. S1100CV202001869 (Pinal Cnty. Sup. Ct. Dec. 15,
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 22 (Ariz. Jan. 6, 2021), *cert. denied*, 209 L. Ed. 2d 735, 141 S. Ct. 2600 (2021). Complaint
 23 alleged similar fraud as *Bowyer v. Ducey*. The Superior Court granted the motion to
 24 dismiss and the Arizona Supreme Court affirmed.

25 10. Filed as Exhibit 4 to the Application is a Task-Based Itemized Statement of
 26 Attorneys’ Fees that includes my billing entries. Exhibit 4 contains a detailed compilation
 27 of the legal time I devoted to the County’s defense of this action. Exhibit 4 is based on
 28

individual time entries I recorded on a daily basis. The time records and description of tasks performed were regularly entered into MCAO's computerized accounting system. I am paid a salary by the County and am required to track my time for County internal budgeting purposes. Billings are generated from the computerized system and Exhibit 4 accurately reflects the legal work I performed on behalf of the County.

11. My billing rate of \$300 per hour in connection with this is commensurate with my education, experience and training. I am generally familiar with the rates charged by other attorneys and law firms in this community with similar experience, education and training, and the rate I charged for the time expended on this matter is consistent with those rates. In addition, the Arizona Court of Appeals approved as reasonable a rate of \$300 per hour for the work of two Assistant Attorneys General in an action that arose under the Arizona Fair Housing Act in 2015. *See City of Tempe v. State*, 237 Ariz. 360, 367-68, ¶¶ 28-34 (App. 2015). Comparing the *City of Tempe* case with this matter, the “difficulty and quality of the work performed, the experience and reputation of counsel, and the nature and significance of the result” are comparable. *Id.*

12. The amount of attorneys' fees I billed as indicated by the attached records is \$40,770.00 Said sum is fair and reasonable compensation in this county for the nature of the service and the skill required in this action.

13. I have personally reviewed my billing statements generated in this representation and after evaluating the efforts necessary, I believe that the total sum of reasonable and appropriate attorneys' fees related to my representation of the County comes to \$40,770.00.

Pursuant to Ariz.R.Civ.P. 80(i), I declare that under penalty of perjury that the foregoing is true and correct.

FURTHER AFFIANT SAYETH NAUGHT

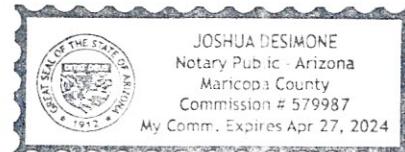
Joseph E. La Rue
Joseph E. La Rue

1
2 SUBSCRIBED AND SWORN to before me this 15th day of December, 2022.
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5 Notary Public
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8 Commission and Seal:
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11 04/27/2024
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*Attorneys for the Defendant
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(Honorable John J. Tuchi)

1 STATE OF ARIZONA }
 2) ss.
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3 Karen J. Hartman-Tellez, being first duly sworn, states as follows:

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 5 Supervisors (the “County”) in the above-captioned action and make these statements based
 6 on my own personal knowledge and in support of the County’s concurrently filed
 Application for Attorneys’ Fees (the “Application”).

7 2. I am Senior Counsel in the Civil Division of the Maricopa County Attorney’s
 8 Office. I was admitted to practice in 2001, following my graduation *magna cum laude* from
 9 Arizona State University College of Law. After law school, I completed a judicial clerkship
 10 for then-Vice Chief Justice Ruth V. McGregor on the Arizona Supreme Court

11 3. Before joining the Maricopa County Attorney’s Office, I practiced in the area
 12 of civil litigation, with a focus on constitutional and media law, at the law firm of Steptoe
 & Johnson LLP. I entered government practice in 2009, working for the Maricopa County
 14 Office of General Litigation Services from 2009 to 2011 and the Office of the Arizona
 15 Attorney General from 2011 to 2019, where I served as an Assistant Attorney General, Unit
 16 Chief Counsel, and Section Chief Counsel. Since 2013, I have been the editor of the Arizona
 17 Attorneys’ Manual chapter on litigation with government agencies. *See e.g. Meyerson,*
Bruce and Norris, Patricia eds., Arizona Attorneys’ Fees Manual (State Bar of Ariz., 7th
 19 ed. 2021), Chapter 4, Litigation with Government Agencies.

20 4. I have substantial experience in voting rights and election litigation in state
 21 and federal courts, including representing plaintiffs in *Gonzalez v. Arizona*, No. CV06-
 22 1268-PHX-ROS (aka *Purcell v. Gonzalez*, 549 U.S. 1 (2006) and *Inter Tribal Council of*
Ariz. v. Arizona, 570 U.S. 1 (2013)) and the government defendants, including the Arizona
 24 Secretary of State, in *Feldman v. Arizona*, No. CV-16-01065-PHX-DLR (aka *Democratic*
Nat'l Comm. v. Reagan, 329 F. Supp. 3d 824 (D. Ariz.), *aff'd*, 904 F.3d 686 (9th Cir. 2018)
 26 and *Brnovich v. Democratic Nat'l Comm.*, 141 S. Ct. 2321 (2021)). In both of those cases,

1 I participated in bench trials in the District of Arizona and proceedings in the Ninth Circuit
2 Court of Appeals and United States Supreme Court.

3 5. Filed as Exhibit 4 to the Application is a Task-Based Itemized Statement of
4 Attorneys' Fees that includes my billing entries. Exhibit 4 contains a detailed compilation
5 of the legal time I devoted to the County's defense of this action. Exhibit 4 is based on
6 individual time entries I recorded on a daily basis. The time records and description of tasks
7 performed were regularly entered into MCAO's computerized accounting system. I am
8 paid a salary by the County and am required to track my time for County internal budgeting
9 purposes. Billings are generated from the computerized system and Exhibit 4 accurately
10 reflects the legal work I performed on behalf of the County.

11 6. My billing rate of \$300 per hour in connection with this is commensurate with
12 my education, experience, and training. I am generally familiar with the rates charged by
13 other attorneys and law firms in this community with similar experience, education, and
14 training, and the rate I charged for the time expended on this matter is consistent with those
15 rates. In addition, the Arizona Court of Appeals approved as reasonable a rate of \$300 per
16 hour for the work of two Assistant Attorneys General in an action that arose under the
17 Arizona Fair Housing Act in 2015. *See City of Tempe v. State*, 237 Ariz. 360, 367-68, ¶¶
18 28-34 (App. 2015). Those Assistant Attorneys General were my colleagues in the Arizona
19 Civil Rights Division and I was familiar with the work they did in that case. Comparing
20 the *City of Tempe* case with this matter, the "difficulty and quality of the work performed,
21 the experience and reputation of counsel, and the nature and significance of the result" are
22 comparable. *Id.*

23 7. The amount of attorneys' fees I billed as indicated by the attached records is
24 \$19,500.00 Said sum is fair and reasonable compensation in this county for the nature of
25 the service and the skill required in this action

26 8. I have personally reviewed my billing statements generated in this
27 representation and after evaluating the efforts necessary, I believe that the total sum of
28

1 reasonable and appropriate attorneys' fees related to my representation of the County comes
2 to \$19,500.00.

3 Pursuant to Ariz.R.Civ.P. 80(i), I declare that under penalty of perjury that the
4 foregoing is true and correct.

5 FURTHER AFFIANT SAYETH NAUGHT

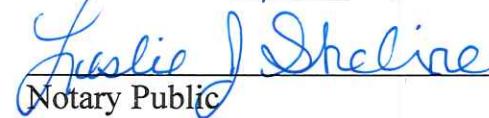
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Karen J. Hartman-Tellez

9 SUBSCRIBED AND SWORN to before me this 15th day of December, 2022.

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Leslie J. Sheline
Notary Public

Commission and Seal:



Emily Craiger (Bar No. 021728)
emily@theburgesslawgroup.com
THE BURGESS LAW GROUP
3131 East Camelback Road, Suite 224
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RACHEL H. MITCHELL
MARICOPA COUNTY ATTORNEY

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Joseph J. Branco (031474)
Joseph E. LaRue (031348)
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ca-civilmailbox@mcao.maricopa.gov

*Attorneys' for the Defendant
Maricopa County Board of Supervisors*

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Kari Lake and Mark Finchem,
Plaintiffs,
vs.
Kathleen Hobbs, et al.,
Defendants.

No. 2:22-cv-00677-JJT

**AFFIDAVIT OF THOMAS P. LIDDY
IN SUPPORT OF DEFENDANT
MARICOPA COUNTY'S
APPLICATION FOR ATTORNEYS
FEES**

(Honorable John J. Tuchi)

STATE OF ARIZONA)
County of Maricopa) SS.

Thomas P. Liddy , being first duly sworn, states as follows:

1. I am attorney of record for Defendant the Maricopa County Board of Supervisors (the “County”) in the above-captioned action and make these statements based on my own personal knowledge and in support of the County’s concurrently filed Application for Attorneys’ Fees (the “Application”).

2. I am Chief of the Civil Division of the Maricopa County Attorney's Office. I was admitted to practice in 1992, following my graduation from Fordham Law School. I am admitted to the bars of Arizona, New York, the District of Columbia and New Jersey (inactive).

3. Before joining the Maricopa County Attorney's Office, I practiced in the area of civil litigation, with a focus on constitutional and media law, at the law firm Collier, Shannon, Rill & Scott in Washington, D.C. In 1995, I was appointed Deputy Counsel for the Republican National Committee where I practiced election law, campaign finance law, constitutional law and civil litigation. I was admitted to practice in Arizona in 1999, working in the area of tort defense and other civil litigation.

4. I have substantial experience in election law practice, including litigation, in state and federal courts, including representing candidates in the U.S. House of Representatives contest in Pennsylvania (*Fox vs. Hoeffel*); U.S. Senate contest in Nevada (*Ensign vs. Reid*), U.S. House of Representatives and Presidential contests in New Mexico (*Wilson vs. Kelly*); (*Bush vs. Gore*) and in 2008 in Hawaii and Washington for Senator John S. McCain's presidential campaign. In addition, I have represented numerous Maricopa County officials in election litigation from 2008 to present, including:

- *Aguilera v. Fontes*, No. CV2020-014083 (Maricopa Cty. Super. Ct., voluntarily dismissed, Nov. 7, 2020).

- *Donald J. Trump for President, Inc. v. Hobbs*, No. CV2020-014248 (Maricopa Cty. Super. Ct., Min. Entry Order, November 13, 2020 (dismissing Complaint

1 with prejudice)). Complaint alleged that poll workers induced voters to press the “green
 2 button” forcing their ballots to be tabulated even though they had overvoted certain contests,
 3 which would therefore not be counted. Superior Court dismissed the Complaint with
 4 prejudice after conducting an evidentiary hearing.

5 • *Arizona Republican Party v. Fontes*, No. CV2020-014553 (Maricopa Cty.
 6 Super. Ct., Min. Entry Order, Nov. 18, 2020 (dismissing Complaint with prejudice)).
 7 Complaint alleged that Maricopa County improperly conducted statutory hand count. The
 8 Superior Court dismissed the complaint with prejudice.

9 • *Aguilera v. Fontes II*, No. CV2020-014562 (Maricopa Cty. Super. Ct.,
 10 Min. Entry, Nov. 29, 2020, (dismissing Complaint with prejudice)), *affirmed* No. 1 CA-CV
 11 20-0688 EL, 2021 WL 2425918 (Ariz. Ct. App. Jun. 15, 2021). Complaint alleged that (1)
 12 “Sharpie” pens, provided by the County in polling locations, caused overvotes; (2) Arizona
 13 law requires “perfect” voting machines, and the County’s tabulation equipment could not
 14 guarantee “perfect” results; and, (3) the Elections Procedures Manual requires that the public
 15 must have physical access—not online stream—to the ballot tabulation center where ballots
 16 are counted. After conducting an evidentiary hearing, the Superior Court dismissed the
 17 Complaint with prejudice for failing to state a claim upon which relief can be granted, or
 18 alternatively, denied the relief sought because Plaintiffs failed to produce evidence
 19 demonstrating entitlement to same.

20 • *Stevenson v. Ducey*, No. CV2020-096490 (Maricopa Cty. Super. Ct.,
 21 voluntarily dismissed December 7, 2020).

22 • *Ward v. Jackson*, No. CV2020-015285 (Maricopa Cty. Super. Ct., Min.
 23 Entry Ruling, Dec. 4, 2020 (dismissing the Complaint with prejudice)), *affirmed* No. CV-
 24 20-0343-AP/EL (Ariz. S. Ct. Dec. 8, 2020), *cert. denied*, 209 L. Ed. 2d 125, 141 S. Ct. 1381
 25 (2021). Complaint alleged that (1) the Maricopa County Recorder did not allow proper
 26 observation of signature verification for early ballot affidavit envelopes and so the verified
 27 signatures were suspect, and (2) ballots needing to be duplicated were duplicated
 28 erroneously. After conducting evidentiary hearing, the Superior Court denied the requested

1 relief, “confirming the election,” because the Court found that evidence did not show fraud,
 2 misconduct, illegal votes, or erroneous vote count. On appeal, the Arizona Supreme Court
 3 “conclud[ed], unanimously, that the challenge fails to present any evidence of
 4 ‘misconduct,’ ‘illegal votes’ or that the Biden Electors ‘did not in fact receive the highest
 5 number of votes for office,’ let alone establish any degree of fraud or a sufficient error rate
 6 that would undermine the certainty of the election results.” *Ward v. Jackson*, No. CV-20-
 7 0343-AP/EL, 2020 WL 8617817, at *2.

8 • *Bowyer v. Ducey*, No. CV-20-02321-PHX-DJH, 506 F.Supp.3d 699, 2020
 9 WL 7238261 (D. Ariz. Dec. 9, 2020 (granting motion to dismiss)). Complaint alleged fraud
 10 resulting from foreign interference in the election via offshore algorithms that somehow
 11 infiltrated Maricopa County’s vote tabulation equipment, leading to “injections” of votes for
 12 President-elect Biden, and ballot fraud. After reviewing the “evidence” submitted by the
 13 plaintiffs, the Court dismissed the case, ruling that the “Plaintiffs failed to provide the Court
 14 with factual support for their extraordinary claims[.]” 506 F. Supp.3d at 724.

15 • *Burk v. Ducey*, No. S1100CV202001869 (Pinal Cnty. Sup. Ct. Dec. 15,
 16 2020 (granting motion to dismiss)), *affirmed* No. CV-20-0349-AP/EL, 2021 WL 1380620
 17 (Ariz. Jan. 6, 2021), *cert. denied*, 209 L. Ed. 2d 735, 141 S. Ct. 2600 (2021). Complaint
 18 alleged similar fraud as *Bowyer v. Ducey*. The Superior Court granted the motion to dismiss
 19 and the Arizona Supreme Court affirmed.

20 5. Filed as Exhibit 4 to the Application is a Task-Based Itemized Statement of
 21 Attorneys’ Fees that includes a detailed compilation of some of the legal time I devoted to
 22 the County’s defense of this action. Although I am salaried and as Division Chief, I am not
 23 required to track my time in the County Attorney’s time-keeping software, Exhibit 4
 24 accurately reflects the legal work I performed on behalf of the County. I kept track of my
 25 time in Outlook in part by using my e-mail and calendar.

26 6. My billing rate of \$300 per hour in connection with this is commensurate with
 27 my education, experience and training. I am generally familiar with the rates charged by
 28

1 other attorneys and law firms in this community with similar experience, education and
2 training, and the rate I charged for the time expended on this matter is consistent with those
3 rates. In addition, the Arizona Court of Appeals approved as reasonable a rate of \$300 per
4 hour for the work of two Assistant Attorneys General in an action that arose under the
5 Arizona Fair Housing Act in 2015. *See City of Tempe v. State*, 237 Ariz. 360, 367-68, ¶¶
6 28-34 (App. 2015). Comparing the *City of Tempe* case with this matter, the “difficulty and
7 quality of the work performed, the experience and reputation of counsel, and the nature and
8 significance of the result” are comparable. *Id.*

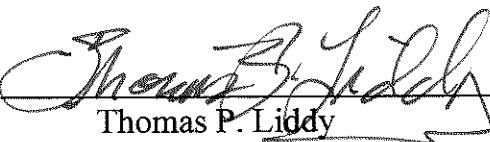
9 7. The amount of attorneys’ fees I billed as indicated by the attached records is
10 \$10,200.00 Said sum is fair and reasonable compensation in this county for the nature of
11 the service and the skill required in this action

12 8. I have personally reviewed my billing statements generated in this
13 representation and after evaluating the efforts necessary, I believe that the total sum of
14 reasonable and appropriate attorneys’ fees related to my representation of the County comes
15 to \$10,200.00.

16 Pursuant to Ariz.R.Civ.P. 80(i), I declare that under penalty of perjury that the
17 foregoing is true and correct.

18 FURTHER AFFIANT SAYETH NAUGHT

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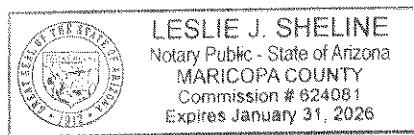


Thomas P. Liddy

SUBSCRIBED AND SWORN to before me this 15th day of December, 2022.


Leslie J. Sheline
Notary Public

Commission and Seal:



PCL XL error

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